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THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, NY 10007

MICHAEL A. CARDOZO
Corporation Counsel

BAREE N. FETT
Assistant Corporation Counsel
Phone: (212) 788-8343
Fax: (212) 788-9776
bfett@law.nyc.gov

March 24, 2008

BY FAX

Honorable Denny Chin
United States District Judge
United States Courthouse
Southern District of New York
500 Pearl Street, Room 1020
New York, New York 10007

Re: Desiree Faltine v. City of New York, et al.
08 CV 01839 (DC)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department and the attorney assigned to represent defendant City of New York in this matter. I write to respectfully request an enlargement of time for the defendant to answer or otherwise respond to the complaint from March 27, 2008, to May 27, 2008. Plaintiff's counsel consents to this application.

In the complaint, plaintiff alleges, *inter alia*, that on January 15, 2006, she was falsely arrested, battered and subjected to malicious prosecution by officers of the New York City Police Department.

There are several reasons for seeking an enlargement of time. First, in accordance with this office's obligations under Rule 11 of the Federal Rules of Civil Procedure, we need this additional time to investigate the allegations of the complaint. Therefore, this office will be forwarding to plaintiff for execution a release for his medical records. Additionally, this office will be forwarding to plaintiff for execution a consent to the designation of the Corporation Counsel as plaintiff's agent for release of records sealed pursuant to New York Criminal Procedure Law §160.50. Pursuant to that statute, all official records concerning plaintiff's arrest and/or prosecution, including police records, are sealed. Defendant cannot obtain these records without the designation and the medical release, and without these records, defendant cannot properly assess this case or respond to the complaint.

The City Law Department and the attorney assigned to represent the City of New York

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Second, it appears that named defendants Milton Bowe and Joseph Pritchard have not yet been served. The enlargement will give plaintiff the opportunity to serve these defendants. In addition, the enlargement should allow time for this office to confirm whether these officers were properly served and, to determine, pursuant to Section 50-k of the New York General Municipal Law, and based on a review of the facts of the case, whether we may represent them. See Mercurio v. The City of New York, et al., 758 F.2d 862, 864-65 (2d Cir. 1985) (quoting Williams v. City of New York, et al., 64 N.Y.2d 800, 486 N.Y.S.2d 918 (1985) (decision whether to represent individual defendants is made by the Corporation Counsel as set forth in state law)).

No previous request for an extension has been made. Accordingly, we respectfully request that defendant's time to answer or otherwise respond to the complaint be extended to May 27, 2008.

Thank you for your consideration of this request.

Respectfully submitted,



Barce N. Fett (BF9416)

Assistant Corporation Counsel

cc: Richard Wright, Esq. (by Fax)